



# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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## Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

Wisconsin Automobile Insurance Plan  
20700 Swenson Drive Suite 100  
Waukesha WI 53186

dated July and October 2001, and served upon the company on September 5, 2002, has been adopted  
as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 20<sup>th</sup> day of May, 2003.

Jorge Gomez  
Commissioner of Insurance

STATE OF WISCONSIN  
OFFICE OF THE COMMISSIONER OF INSURANCE

MARKET CONDUCT EXAMINATION

OF

WISCONSIN AUTOMOBILE INSURANCE PLAN  
WAUWATOSA, WI

JULY AND OCTOBER 2001

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# State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

*Jim Doyle, Governor*  
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October 25, 2001

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Honorable Jorge Gomez  
Commissioner of Insurance  
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a market conduct examination was made in July and October 2001 of the:

Wisconsin Automobile Insurance Plan  
Wauwatosa, WI

and the following report is respectfully submitted.

## I. INTRODUCTION

The original Wisconsin Automobile Assigned Risk Plan (Plan) was established in July of 1942, based on a voluntary agreement among all insurers transacting the business of automobile bodily injury liability insurance in Wisconsin. By 1949 the assigned risk problem had become larger in scope and Chapter 351, Laws of 1949 made the Plan statutory under the provisions of s. 204.51 (2), Wis. Stat.

Under s. 204.51, Wis. Stat., the purposes of the Plan were:

1. To make automobile bodily injury and property damage liability insurance available, subject to the conditions stated in the Plan manual of rules and rates.
2. To establish a procedure for the equitable distribution of risks assigned to insurance companies.

On January 1, 1969, the name of the Plan was changed to the Wisconsin Automobile Insurance Plan (Plan). Section 204.51 (2), Wis. Stat., was repealed on August 22, 1969, and replaced by ch. 619, Wis. Stat., pertaining to all risk sharing plans. Although the actual enabling legislation is no longer present, the existing Plan continued unchanged, in accordance with s. 619.01 (6), Wis. Stat.

The 1969 changes to the law gave the Commissioner of Insurance the power, upon promulgation of an administrative rule, to bring the automobile assignment plan into the general family of pools similar to the Wisconsin Rejected Risk Pool (now known as the Workers Compensation Insurance Pool) and the Wisconsin Insurance Plan. Section Ins 3.49, Wis. Adm. Code went into effective December 1, 1984. It was created to provide for the continued availability of automobile insurance for applicants unable to procure insurance and provide specific access and grievance procedures for the Plan by interpreting s. 619.09 (6), Wis. Stat., and the former s. 204.51 (2), Wis. Stat.

Membership in the Plan is required for each insurer writing automobile liability insurance in Wisconsin except for those insurers exempt from ch. 619, Wis. Stat. The number of Plan members varies directly with the number of companies licensed to transact the business of automobile liability insurance in Wisconsin.

Since the original Plan was adopted in 1942, the Wisconsin Compensation Rating Bureau has managed its operations at the request of the Plan's Governing Committee.

## **II. PURPOSE AND SCOPE**

The examination was conducted to determine whether the practices and procedures of the Wisconsin Automobile Insurance Plan (Plan) comply with the Wisconsin insurance statutes and rules. The examination included a market conduct and financial component.

The market conduct portion of the examination focused on the period from January 1, 1999 through May 31, 2001. The examination of the Plan included, but was not limited to, verification of compliance with the recommendations made in the prior examination report dated September 25, 1986, customer service and complaint handling, company operations and management, electronic commerce activities and the commercial and personal lines residual market operations of the Plan.

The financial portion of the examination consisted of a review of all major phases of the Plan's operations since the last examination, including the following areas:

- Management and Control
- Corporate Records
- Fidelity Bonds and Other Insurance
- Employees' Welfare and Pension Plans
- Growth of Company
- Financial Statements
- Accounts and Records
- Data Processing

Emphasis was placed on the audit of those areas of the Plan's operations accorded a high priority by the examiner-in-charge when planning the examination. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

### **III. SUMMARY OF CONSUMER COMPLAINTS**

The Office of the Commissioner of Insurance (Commissioner) defines a complaint as “a written communication received by the Commissioner that indicates dissatisfaction with an insurance company, agent or other licensee.” The Commissioner did not receive any complaints against the Wisconsin Automobile Insurance Plan (Plan) between January 1, 1999 and April 30, 2001.

Prior to July 1, 2001, the system used by the Commissioner to track consumer complaints did not record whether a complaint against a specific insurer was related to a policy issued on behalf of the Plan. As such, the examiners were not able to determine if any automobile insurance complaints received by the Commissioner between January 1, 1999 and April 30, 2001, were related to a policy issued on behalf of the Plan.

#### **IV. SUMMARY OF PRIOR EXAMINATION RECOMMEDATIONS**

The prior examination of the Wisconsin Automobile Insurance Plan (Plan) was conducted June 2, through July 24, 1986 in conjunction with an examination of the Wisconsin Compensation Rating Bureau (Bureau) and the Wisconsin Worker's Compensation Insurance Pool (Pool). The examination consisted of a review of the organizational structure, rules, minutes, and internal operations of the Plan. Recommendations contained in the prior examination report related to the Bureau and the Pool are covered in a separate examination report. The recommendations contained in the previous examination report related to the Plan and the Plan's actions therein follow:

13. Contracts be made with the WWCIP and WAIP servicing carriers so that all conditions are by agreement including a 60 or 90 day notice to terminate the agreement to act as a servicing carrier.

Action: Compliance

15. The manager of the Wisconsin Automobile Insurance Plan should have a separate agreement with the Plan Governing Committee which describes his duties and responsibilities to the plan.

Action: Compliance

16. The WAIP manual be revised for easier use by Wisconsin insurance agents and improve the rating factor sequences for rating different types of automobile risks.

Action: Compliance

17. Records of assigned policies be maintained by WAIP in order to control the assigned business and to monitor compliance with the Plan's rates and rules filed with the commissioner as required by Wisconsin Administrative Code section Ins 3.49 (3).

Action: Compliance



## V. MARKET CONDUCT EXAMINATION FINDINGS

### Operations & Management

The Wisconsin Automobile Insurance Plan (Plan) is an unincorporated facility established by s. 204.51, 1967 Stats., and continued under s. 619.01 (6), Wis. Stat. The Plan is administered by a Governing Committee which is defined by s. Ins 3.49 (2) (a), Wis. Adm. Code, as the group of companies administering the Plan. The Governing Committee is composed of eight companies, two from each of the following classes of companies:

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Alliance of American Insurers  
American Insurance Association  
National Association of Independent Insurers  
Nonaffiliated Insurance Companies

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In addition, one company acting as a representative of all servicing carriers for the commercial lines residual market business and who is not otherwise representing any of the four classes of companies, may also be appointed by the Governing Committee to be a member of that committee.

Annually, on a date fixed by the Governing Committee, each respective class of companies elects its representatives to serve on the committee for a one year period or until a successor is elected. The servicing carrier representative is also appointed annually at the option of the Governing Committee and is not subject to election.

The Governing Committee members by class, as of July 2001, and their market share rank based on their Wisconsin written premium volume in 2000 are as follows:

		2000 MARKET SHARE RANKING	
Class	GOVERNING COMMITTEE MEMBER	Private Passenger Cars	Commercial Vehicles
Alliance of American Insurers			
	♦ Employers Ins. of Wausau, A Mutual Co	-	19
	♦ Employers Mutual Casualty Co	195	14
American Insurance Association			
	♦ Hartford Fire Ins. Co	160	81
	♦ St. Paul Fire & Marine Ins. Co	251	13
National Assn. of Independent Insurers			
	♦ American Family Mutual Ins. Co	1	16
	♦ General Casualty Company of WI	7	3
Nonaffiliated Insurance Companies			
	♦ Sentry Ins., A Mutual Co	10	24
	♦ State Farm Mutual Automobile Ins. Co	2	6
Servicing Carrier			
	♦ Granite State Ins. Co	-	138

The Governing Committee is empowered to appoint a Manager, budget expenses, levy assessments, disburse funds, and perform all duties essential to the proper administration of the Plan. Since the original Plan was adopted in 1942, the Wisconsin Compensation Rating Bureau (Bureau) has managed its operations at the request of the Plan's Governing Committee. The president of the Bureau has been appointed as the Manager of the Plan. The Governing Committee meets as often as required to perform the general duties of administration of the Plan.

In addition to the Governing Committee, there are three subcommittees. A summary of the subcommittees, their purpose, and respective members as of July 2001 is as follows:

- I. *Commercial Subcommittee:* The Commercial Subcommittee assists the Governing Committee and Plan management in all operational matters such as forms, rates, rules and procedures in conjunction with commercial automobile insurance. This subcommittee reports to the Governing Committee and its members are:
  - ♦ Employers Insurance of Wausau, A Mutual Company
  - ♦ Employers Mutual Casualty Insurance
  - ♦ Granite State Insurance Company
  - ♦ St. Paul Fire & Marine Insurance Company

- III. Joint Finance: The Joint Finance subcommittee meets with representatives of the Bureau's Governing Committee to determine allocation of shared costs. This subcommittee reports to the Plan's Governing Committee and its members are:
- ♦ Liberty Mutual Insurance Company
  - ♦ St. Paul Fire & Marine Insurance Company
- III. *Personal Subcommittee*: The Personal Subcommittee assists the Governing Committee and Plan management in all operational matters such as forms, rates, rules and procedures in conjunction with personal automobile insurance. This subcommittee reports to the Governing Committee and its members are:
- ♦ American Family Mutual Insurance Company
  - ♦ Hartford Underwriters Insurance Company
  - ♦ General Casualty Company of Wisconsin
  - ♦ State Farm Mutual Automobile Insurance Company

The examiners reviewed the Plan Annual Reports for the last 3 years, the standard forms used by the Plan, the Commercial Automobile Manual, the Personal Automobile Manual, and the agendas and minutes for the Governing Committee for the period under review. The following exceptions were noted.

The examiners found that Plan form number 982 (0995) advises applicants and policyholders that:

"Whenever you are able to secure coverage elsewhere, you may cancel your Plan policy with no penalty."

Rule F. Designation of Company, Evidence of Insurance and Effective Date of Coverage in Section I - Purpose and Eligibility of the Personal Automobile Manual states that:

"If, for any reason, the applicant refuses to accept the policy, the designated company shall retain the pro rata earned premium for the period of coverage or the sum of \$25 per car, whichever is greater, and return the balance to the applicant."

Rule 5.A, Cancellation at the Request of Insured in Section II – Producer, Insurance Company Responsibilities of the Personal Automobile Manual states that:

"If for any reason the insured requests cancellation of its policy such cancellation shall be on a pro rata basis with a minimum earned premium of \$25 per vehicle."

Rule 5.B, Cancellation by Company in Section II – Producer, Insurance Company Responsibilities of the Personal Automobile Manual provides that cancellation by the company

“shall be on a pro rata basis, subject to the minimum charge of \$25 per car or policy.” Rule 6.

Minimum Premium in Section III--Rules and Rates of the Personal Automobile Manual states:

“The minimum annual premium charge is \$25 per policy. The minimum premium shall be inclusive of additional charges imposed for any additional hazards.”

These rules appear to be contrary to the statement in Plan form number 982 (0995) as imposing a minimum earned premium could result in a monetary penalty to the insured for terminating the Plan policy.

- 1. Recommendation:** To ensure that an applicant and/or policyholder is aware of the minimum annual premium charge provided for in the Personal Automobile Manual, it is recommended that the Plan revise Plan form number 982 (0995) accordingly.

## **Customer Service and Complaints**

The examiners reviewed the process used by the Plan to handle complaints and appeals to the Plan requested pursuant to s. Ins 3.49 (3) (d), Wis. Adm. Code. The following exceptions were noted.

The examiners found that the Plan does not have a formal definition of what constitutes a complaint, does not maintain a complaint log or other formal record of complaints and does not have written procedures for staff to follow in the handling of complaints. As complaints are received, they are reviewed and handled by Plan staff and referred to the Governing Committee as needed. While the examiners did not find any unanswered complaints during their review, the lack of a complaint log and written procedures makes it difficult to track problems related to a particular servicing carrier, insurance agent, Plan employee, or Plan rule and/or procedure.

- 2. Recommendation:** It is recommended that the Plan formally define what constitutes a complaint, develop and implement written procedures related to the handling of complaints and maintain a log of complaints received.

The examiners found that Rule 6. Right of Appeal in Section II - Producer, Insurance Company Responsibilities of the Personal Automobile Manual states that:

“An applicant denied insurance or an insured given Notice of Cancellation of insurance under the Plan may appeal such action to the Committee. Each Notice of Cancellation or denial of insurance shall contain or be accompanied by a statement that the insured or applicant has a right of appeal to the Committee.

A company subscribing to the Plan shall also have the right of appeal to the Committee. The action of the Committee may be appealed to the Commissioner of Insurance.

The Plan shall promptly notify the company, the insured or applicant, and the producer of record of the disposition of the appeal, which notification in the case of refusal to sustain a cancellation shall include notice that upon payment of the deposit premium to the company a policy or binder will be issued.

An appeal shall not operate as a stay of cancellation provided, however, that if either the Committee or the Commissioner of Insurance refuses to sustain the cancellation, the company which issued the policy or binder shall within two working days after receipt of the deposit premium, provided such deposit premium is received within 30 days after determination of the appeal, issue a new policy or binder effective for a period of one year from the date of issuance of such new policy or binder. The balance of the premium shall be payable as provided in Section II, Rule 3."

The examiners also found that Rule N., Appeals By Applicant or Insured in Section I - General Rules and Information of the Commercial Automobile Manual states that:

"Any applicant, insured, producer, or other party has the right to appeal any action or decision of the Plan to the Governing Committee. The Plan will promptly notify the appellant of the Committee's decision, and that action may be further appealed to the Commissioner of Insurance, if necessary."

Section Ins 3.49 (3) (d), Wis. Adm. Code, provides that the method by which an applicant to the Plan denied insurance or an insured under the Plan whose insurance is terminated may request the committee to review the denial or termination and by which an insurer subscribing to the Plan may request the committee to review actions or decisions of the Plan which adversely affect the insurer shall specify that requests for review must be made in writing to the Plan.

- 3. Recommendation:** It is recommended that Rule 6. Right of Appeal in Section II. Producer--Insurance Company Responsibilities of the Personal Automobile Manual be amended to comply with s. Ins 3.49 (3) (d), Wis. Adm. Code. It is further recommended that Rule N., Appeals By Applicant or Insured in Section I - General Rules and Information of the Commercial Automobile Manual be amended to comply with s. Ins 3.49 (3) (d), Wis. Adm. Code.

## **Electronic Commerce**

The Plan currently maintains a website. It utilizes its website to increase the amount and quality of timely information available to its customers. The site currently provides a brief history and general information about the Plan, an area with answers to frequently asked questions,

links to the electronic versions of the [Personal Plan Manual](#) and [Commercial Plan Manual](#) and helpful hints on completing applications. Future enhancements to the Plan's website include the addition of all Plan Letters, an application allowing users to develop auto experience modifications and copies of application forms used by the Plan. The website is being developed in-house.

The examiners reviewed the Plan's website and no exceptions were noted.

## **Residual Market Operations**

The Plan is organized into two categories, private passenger personal automobile risks and commercial risks or the Wisconsin Special Risk Distribution Plan (SRDP).

The Plan defines a private passenger automobile as a motor vehicle of the private passenger type, station wagon, jeep, motorcycle, motorized bicycle, scooter, recreational vehicle, motor home and other similar motorized vehicles. The vehicles must be licensed for the road and cannot be used as a public or livery service or rented to others. For private passenger personal automobiles, the Plan offers bodily injury, property damage, uninsured motorist, underinsured motorist, medical payments, comprehensive and collision coverages.

A commercial risk is defined as a truck, tractor, trailer, private passenger business use vehicle, public auto, miscellaneous type or hired and non-owned auto. The commercial risk must be headquartered in Wisconsin to be eligible for coverage through the Plan. The Plan offers bodily injury, property damage, uninsured motorist, underinsured motorist and medical payments coverages for commercial risks. Comprehensive or collision coverage for commercial risks is not available through the Plan. Applications to the Plan must include the entire commercial automobile liability exposure of the applicant, as the Plan does not provide coverage for only a portion of a commercial risk.

## **Commercial Lines**

The Plan is required to provide reasonable rules governing the equitable distribution of risk by direct insurance, reinsurance or otherwise and their assignment to insurers. For the

commercial risk or SRDP portion of the Plan, applications for insurance are assigned to an insurer that has been appointed by the Governing Committee to provide service to commercial automobile liability risks. The premiums, losses, and expenses of servicing risks insured through the SRDP plan are shared with the other members of the Plan in proportion to the members voluntary commercial automobile liability direct premium written in Wisconsin.

The servicing carriers for the Plan issue policies in their own name and provide claims, loss control, auditing and other services to risks insured through the Plan. As of July 2001, there were two members servicing the SRDP portion of the Plan on behalf of all members. The two servicing carriers and their market share rank based on their Wisconsin commercial vehicle written premium volume in 2000 are as follows:

<b>Servicing Carrier</b>	<b>2000 Market Share Ranking</b>
Granite State Insurance Company	138
Liberty Mutual Insurance Company	114

During the period under review, however, the servicing carriers were Granite State Insurance Company and Employers Insurance of Wausau, A Mutual Company.

The examiners reviewed 50 new business applications made to the Plan during the period under review. In addition, the examiners reviewed the process used to handle applications to the Plan and the Commercial Automobile Manual. The following exceptions were noted.

The examiners found that there is no written procedure or procedural manual for the staff to follow in the processing of commercial lines applications received by the Plan.

The examiners found that Rule 11. Policy Cancellations of the General Rules Section of the Commercial Automobile Manual states that:

“Cancellations of commercial risks shall be on a pro rata basis and in accordance with applicable Wisconsin law. However, facultative reinsurance may be fully earned and not subject to any pro rata or short rate adjustment. Cancellation at insured's request is also subject to the policy writing minimum premium shown in Rule 8 regardless of term.”

This rule states that cancellations shall be on a pro-rata basis. However, the rule appears to allow the servicing carrier a choice as to whether or not facultative reinsurance is fully earned.

- 4. Recommendation:** To avoid confusion and ensure consistent application among insureds and by servicing carriers, it is recommended that Rule 11. Policy Cancellations of the General Rules Section of the Commercial Automobile Manual be amended to clearly state under what circumstances facultative reinsurance is or is not fully earned.

The examiners found that the format of the disclosure of the insured's right to contact the Commissioner regarding an insurance problem being sent by one servicing carrier does not comply with s. Ins 6.85 (4), Wis. Adm. Code. Section Ins 6.85 (4), Wis. Adm. Code, states that:

"Every insurer shall disclose the insured's right to contact the office of the commissioner of insurance regarding an insurance problem by providing a notice which shall:

- (a) Be in the form as prescribed in Appendix I or for policies subject to sub. (5) (d) in form as prescribed in Appendix 2;
- (b) Include the issuer's address, toll free phone number, if available, and phone number in no less than 12-point type and bold print.
- (c) Be in no less than 10-point type; and
- (d) Have the phrase 'KEEP THIS NOTICE WITH YOUR INSURANCE PAPERS,' 'PROBLEMS WITH YOUR INSURANCE?' in Appendix I and the 'OFFICE OF THE COMMISSIONER OF INSURANCE' in Appendices I and 2 capitalized and in bold lettering."

- 5. Recommendation:** It is recommended that the Plan direct the servicing carrier to comply with s. Ins 6.85 (4), Wis. Adm. Code.

The examiners found two new business applications that were assigned to the wrong servicing carrier based on the county for the city of the applicant's address as shown on the application. Plan procedures call for the assignment to a servicing carrier based on the county for the city of the applicant's address as shown on the application.

- 6. Recommendation:** It is recommended that the Plan follow its written procedures when assigning new business to a servicing carrier.

The examiners found five new business applications where the Plan did not collect the fee for each motor carrier regulatory agency to which the servicing carrier was asked to send liability insurance verification. The Plan advised the examiners that the servicing carriers were



currently absorbing the costs of the filings and that all money is applied to the premium or returned to the insured. Rule F.3 in Section I of the Commercial Automobile Manual provides that:

“The applicant must also submit \$10 for each motor carrier regulatory agency to which the servicing carrier is asked to send liability insurance verification. This additional premium should accompany the deposit premium when the application is submitted.”

- 7. Recommendation:** It is recommended that the Plan collect the required fee for each motor carrier regulatory agency to which the servicing carrier is asked to send liability insurance verification to ensure compliance with Rule F.3 in Section I of the Commercial Automobile Manual.

The examiners found 18 new business applications to the Plan where the agent did not include an agent license number. Of these 18 applications, the examiners were unable to identify the producer submitting the business for four of the applications. The Plan requires that the producer submitting an application for insurance include on the application his or her Wisconsin agent license number, social security number or Federal Employer Identification Number. However, the Plan does not take any action to verify that the producer holds a valid Wisconsin intermediary license before accepting an application for insurance. Section 628.03 (1), Wis. Stat., provides that no person may utilize the services of another as an intermediary if the person knows or should know that the other does not have a license as required by law.

- 8. Recommendation:** To ensure compliance with s. 628.03 (1), Wis. Stat., it is recommended that at the time an application for commercial lines insurance is submitted to the Plan, the Plan verify that the producer submitting the application does in fact hold a valid Wisconsin intermediary license before accepting the application for insurance.

The examiners found that one of the servicing carriers allows insureds to make premium payments to the producer of record. The Premium Notice and the Notice of Cancellation for Non-Payment of Premium both state that the insured may pay either the insured's producer or the company. Rule L in Section I of the Commercial Automobile Manual provides that the “producer does not represent the servicing carrier nor the Plan, in any way, and has no authority to bind, change, alter, or terminate coverage.” Section 628.40, Wis. Stat., provides that every

insurer is bound by any act of its agent performed in this state that is within the scope of the agent's apparent authority. The acceptance of premium payments and the subsequent binding of coverage is within the scope of an agent's apparent authority and is common practice for most all other personal and commercial lines of property and casualty insurance. Instructing the insured to pay the producer or the company may create the appearance of an agency relationship and lead the insured to believe that payment to the producer is the same as payment to the servicing carrier when in fact it is not.

- 9. Recommendation:** It is recommended that the Plan direct the servicing carrier to eliminate the option of paying the premium to the producer and require the servicing carrier to revise its premium and cancellation notices accordingly.

The examiners found that for 10 of the 50 new business policies reviewed, the Plan allowed the applicant or the producer to take responsibility for mailing the application materials, including the deposit premium, to the servicing carrier. The Plan advised the examiners that its standard practice is to mail all applications for insurance to the servicing carrier via regular U.S. Mail and allow applicants or producers to send the application to the servicing carrier when a more expeditious delivery of the application materials is requested. It is the responsibility of the Plan to accept applications, make assignments and forward the application including the deposit premium to the servicing carrier. The producers and applicants are not agents of the Plan and therefore have no authority to act on behalf of the Plan. Allowing the producer or applicant to take responsibility of performing a function that is clearly a duty of the Plan may create the appearance of an agency relationship between the Plan and the producer and/or the applicant. It may also expose the Plan to unnecessary liability should the producer and/or applicant fail to forward the application and/or misappropriate the deposit premium.

- 10. Recommendation:** It is recommended that the Plan develop and implement a procedure that allows the Plan to deliver application materials to the servicing carrier more expeditiously than via regular U.S. Mail.

The examiners found that the renewal notice sent by one servicing carrier does not effectively terminate coverage for failure to timely pay the renewal premium as the notice does

not state clearly the effect of non-payment of premium by the due date. Section 631.36 (4), Wis. Stat., provides that a policyholder has a right to have the policy renewed unless at least 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder, or with respect to failure timely to pay a renewal premium a notice is given, not more than 75 days nor less than 10 days prior to the due date of the premium, which states clearly the effect of nonpayment of premium by the due date.

**11. Recommendation:** To ensure that coverage is effectively terminated when the insured fails to timely pay the renewal premium, it is recommended that the Plan direct the servicing carrier to revise its notice of renewal to comply with s. 631.36 (4), Wis. Stat.

The Plan advised the examiners that it does not have a procedure in place to ensure that the Plan is notified when the servicing carrier receives an assignment and issues the required policy.

**12. Recommendation:** To ensure that all assigned policies are issued, it is recommended that the Plan develop and implement a procedure that requires a servicing carrier to notify the Plan of the receipt of an assignment and the issuance of the policy.

### Personal Lines

The Plan is required to provide reasonable rules governing the equitable distribution of risk by direct insurance, reinsurance or otherwise and their assignment to insurers. For the personal private passenger portion of the Plan, the Plan designates member companies to provide the requested coverages. In accordance with the Personal Automobile Manual, the Plan distributes the risks so the each member will receive the same proportion of:

- “(a) Private passenger nonfleet Plan premiums that its respective voluntary private passenger nonfleet net direct written car years bear to the statewide total of the voluntary private passenger nonfleet net direct written car years of all companies in the state, and;
- (b) All other Plan premiums that its respective net direct voluntary all other automobile liability premiums bear to the total of such voluntary all other automobile liability premiums of all companies in the state.”

The designated members issue policies to the risks in their own name and provide claims and other services to the risks. The policies must be written in accordance with the Personal Automobile Manual, using the rates and rating plans contained in the Personal Automobile Manual. The premiums, losses, and expenses of risks insured through the Plan are the responsibility of the designated member.

The examiners reviewed all 35 new business applications received by the Plan during the period under review. In addition, the examiners reviewed the process used to handle the applications and the Personal Automobile Manual. The following exceptions were noted.

The examiners found that there is no written procedure or procedural manual for the staff to follow in the processing of personal line applications received by the Plan.

The examiners found one new business application to the Plan where the agent did not include an agent license number and the examiners were unable to identify the producer submitting the business. The Plan requires that the producer submitting an application for insurance include on the application his or her Wisconsin agent license number, social security number or Federal Employer Identification Number. However, the Plan does not take any action to verify that the producer holds a valid Wisconsin intermediary license before accepting an application for insurance and binding the coverage. Section 628.03 (1), Wis. Stat., provides that no person may utilize the services of another as an intermediary if the person knows or should know that the other does not have a license as required by law.

**13. Recommendation:** To ensure compliance with s. 628.03 (1), Wis. Stat., it is recommended that at the time an application for personal lines insurance is submitted to the Plan, the Plan verify that the producer submitting the application does in fact hold a valid Wisconsin intermediary license before accepting the application for insurance.

The examiners found that the Plan would reject an application for insurance if the most recent version of the application form was not completed. While the examiners did not find any applications returned to the producer and/or insured solely because the most recent version of

the application was not used, this procedure could cause an unnecessary delay in the effective date of the policy should it be the only reason for rejecting the application.

**14. Recommendation:** It is recommended that the Plan not return an application to the producer and/or insured for the sole reason that the most recent version of the application form was not completed.

The examiners found that the Plan application indicates that certified checks are an acceptable form of payment for the deposit premium. In addition, the examiners found that the Plan accepts certified checks for the deposit premium. Rule 1.C. Deposit Applicable to Either A or B Above in Section II, Producer, Insurance Company Responsibilities of the Personal Automobile Manual states that:

“The deposit premium shall be submitted gross either in cashier's check, money order, or agent's check only payable to the Wisconsin Automobile Insurance Plan.”

**15. Recommendation:** It is recommended that Rule 1.C. Deposit Applicable to Either A or B Above in Section II, Producer, Insurance Company Responsibilities of the Personal Automobile Manual be amended to reflect the Plan's actual practice of accepting certified checks for the deposit premium.

The examiners found that Rule 3.A, Company's Notice to Applicant in Section II - Producer, Insurance Company Responsibilities of the Personal Automobile Manual states that:

“The date when Notice of Designation and premium or deposit are received from the Plan shall be deemed the first working day, whatever may be the time of such receipt.

No Saturday, Sunday, or legal holiday in the place of receipt, shall be deemed a working day.”

The Personal Automobile Manual also outlines the number of days that the designated company must perform certain tasks related to the assigned policy. While the manual specifically defines the date when the Notice of Designation is deemed to be received, it does not indicate if the various time frames contained in other portions of the manual are stated in working or calendar days.

**16. Recommendation:** In order to avoid confusion, it is recommended that the Personal Automobile Manual be amended to clearly indicate when a specific performance standard is to be completed in a specified number of working or calendar days.

The examiners found that Rule F.1 in Section I of the Personal Automobile Manual provides that:

“If, for any reason, the applicant refuses to accept the policy, the designated company shall retain the pro rata earned premium for the period of coverage or the sum of \$25 per car, whichever is greater, and return the balance to the applicant.”

In addition, Rule 6 in Section III of the Personal Automobile Manual provides that:

“The minimum annual premium charge is \$25 per policy. The minimum premium shall be inclusive of additional charges imposed for any additional hazards.”

The Plan advised the examiners that it is not aware if the designated carriers are providing notice to insureds that less than a pro-rata refund will be made to the insured when the policy is cancelled by the insured in the event that the pro-rata premium is less than \$25 per policy. Section Ins 6.10 (4) (b), Wis. Adm. Code, provides that no insurer may return a premium that is less than the pro rata unearned premium until at least 10 days after the insurer mails or delivers written notice to the policyholder which advises that the policyholder may pay a substantial penalty if the policyholder cancels the policy prior to its agreed upon expiration date.

**17. Recommendation:** To ensure compliance with s. Ins 6.10, Wis. Adm. Code, it is recommended that the Plan provide written notice that the policyholder may pay a substantial penalty if the policyholder cancels the policy prior to its expiration date or amend the Personal Automobile Manual to require the designated companies to provide the required notice and verify that all designated companies are providing the appropriate notice.

The examiners found that according to Rule 2.B, Designation of Company, Evidence of Insurance, and Effective Date of Coverage in Section II - Producer, Insurance Company Responsibilities of the Personal Automobile Manual, the Plan is responsible for filing a Financial Responsibility Certificate (SR-22) with the appropriate regulatory authority. The Plan advised the examiners that the designated company is responsible for canceling a SR-22, however, there is no rule in the Personal Automobile Manual making it the responsibility of the designated carrier should the Plan policy be terminated.

**18. Recommendation:** It is recommended that the Personal Automobile Manual be revised to require the designated carrier to terminate a Financial Responsibility Certificate (SR-22) when the Plan policy is terminated.

The examiners found that Rule 3.B.3, in Section II of the Personal Automobile Manual provides that “at least 60 days prior to the inception date of the first, second, and third renewal policies, the designated company shall notify the insured that a renewal policy will not be issued for the reason that the applicant is not entitled to insurance under the Plan.” Section 631.36 (6), Wis. Stat., provides that a notice of cancellation or nonrenewal shall state with reasonable precision the facts on which the insurer's decision is based and that no such notice is effective unless it so states the facts.

**19. Recommendation:** It is recommended that Rule 3.B.3 in Section II of the Personal Automobile Manual be amended to require the designated carrier to state with reasonable precision the facts on which the insurer's decision is based in order to ensure compliance with s. 631.36, Wis. Stat.

The examiners found that Rule 3.D Completion of Assignment Period in Section II of the Personal Automobile Manual provides that at the end of the assignment period the designated carrier must give at least 45 days notice prior to the expiration date of the policy that the Plan will terminate coverage. Section 631.36 (4) (a), Wis. Stat., provides that a policyholder has a right to have the policy renewed, on the terms then being applied by the insurer to similar risks, for an additional period of time equivalent to the expiring term if the agreed term is one year or less, or for one year if the agreed term is longer than one year, unless at least 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder.

**20. Recommendation:** It is recommended that Rule 3.D Completion of Assignment Period in Section II of the Personal Automobile Manual be amended to comply with s. 631.36 (4) (a), Wis. Stat.

The examiners found that Rule 7. Reeligibility in Section II of the Personal Automobile Manual refers to Rule 5.B in Section II, of the Personal Automobile Manual. The examiners

could not locate Rule 5.B in Section II in the current manual. In addition, Rule 7. Reeligibility in Section II of the Personal Automobile Manual states that:

“An applicant who fails to pay the renewal premium quoted by the assigned company, in accordance with the provisions of Section I, rule C.2 of this Plan, may reapply for assignment at any time.”

Rule C.2, in Section I of the Personal Automobile Manual is entitled Vehicles To Which This Manual Applies and states:

“A motor vehicle with a pickup body or a van owned by an individual, or husband and wife who are residents of the same household, and not customarily used in the occupation, profession, or business of the insured other than in the course of driving to or from work shall be classified and rated as a private passenger automobile.”

The examiners were unable to determine how Rule C.2 in Section I and Rule 7 in Section II were related.

**21. Recommendation:** It is recommended that Rule 7. Reeligibility in Section II of the Personal Automobile Manual be amended accordingly to reflect the correct references to other applicable Plan rules.

The examiners found that Rule 8. Four-Year Assignment Period in Section II of the Personal Automobile Manual provides that the designated company is not required to renew the policy, if at the time of renewal the insured is stationed in another state and the automobile is not registered in Wisconsin. Section 631.36 (4) (a), Wis. Stat., provides that a policyholder has a right to have the policy renewed, on the terms then being applied by the insurer to similar risks, for an additional period of time equivalent to the expiring term if the agreed term is one year or less, or for one year if the agreed term is longer than one year, unless at least 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder.

**22. Recommendation:** To ensure compliance with s. 631.36 (4) (a), Wis. Stat., it is recommended that Rule 8, Four-Year Assignment Period in Section II of the Personal Automobile Manual be amended to require that proper notice of non-renewal be provided to the insured.



The examiners found that Rule 9.A.2 in Section II of the Personal Automobile Manual states that:

“The company shall receive credit for issuing a policy for a private passenger nonfleet automobile assigned to it, provided the producer of record has been given notice of intent, on a prescribed form, to make an offer at the expiration of the policy.”

Rule 9.B.1 in Section II of the Personal Automobile Manual states that:

“Each company shall receive credit for each private passenger nonfleet automobile presently insured by it in the Plan that it voluntarily writes at the expiration date provided the producer of record has been given notice on a prescribed form to make an offer at the expiration of the policy.”

The Plan advised the examiners that it does not have a standard 'prescribed form' for the designated carriers to use to notify the producer of record that the company is willing to voluntarily write a Plan policy at the policy's expiration.

**23. Recommendation:** It is recommended that Rules 9.A.2 and 9.B.1 in Section II of the Personal Automobile Manual be revised to clarify the references to a 'prescribed form'.

The Plan advised the examiners that it does not have a procedure in place to ensure that the Plan is notified when a designated carrier receives an assignment and issues the required policy.

**24. Recommendation:** To ensure that all assigned policies are issued, it is recommended that the Plan develop and implement a procedure that requires a designated carrier to notify the Plan of the receipt of an assignment and the issuance of the policy.

The examiners found three applications where the Plan accepted the application for insurance with less than a 40% premium deposit. Rule 1, Application for Assignment in Section II of the Personal Automobile Manual states that “a deposit of 40% of the total annual premium is required with the application.”

**25. Recommendation:** To ensure compliance with Rule 1, Application For Assignment in Section II of the Personal Automobile Manual, it is recommended that the Plan check for and obtain the required deposit premium before accepting applications for insurance.

The examiners found that the Plan binds coverage effective at 12:01 A.M. on the day following receipt by the Plan of a complete application for insurance and the appropriate deposit premium. In addition, the examiners found that when an incomplete application for insurance is received, the Plan will bind the coverage effective at 12:01 A.M. on the day following receipt of the original application provided the producer and/or insured provides the Plan with a complete application for insurance within 15 calendars days after the Plan notifies the producer and/or insured of the deficiencies in the application. Rule 2.B., Designation Of Company, Evidence Of Insurance, and Effective Date Of Coverage - Original Application in Section II of the Personal Automobile Manual states that:

“Upon receipt of the application for insurance properly completed with the required deposit premium, and if the application form shows that the applicant is eligible for coverage, the Plan shall designate a company to which the applicant shall be assigned and shall so advise the applicant and the producer of record and shall state in such notice the date when the coverage shall become effective, which date shall be at 12:01 A.M. on the day following the date of mailing to the designated company of such notice. In the event there is in force a policy terminating at a date later than the date which would be fixed pursuant to this section the applicant shall indicate such date in his application and the Plan shall fix the date when the coverage becomes effective at 12:01 A.M. on the stated termination date of such policy.”

Rule 10.D., Performance Standards For Service - Effective Date of Coverage in Section II of the Personal Automobile Manual states that coverage is effective at 12:01 A.M. on the day following the date the Plan mails the Notice of Assignment to the designated carrier.

**26. Recommendation:** It is recommended that the Personal Automobile Manual be amended accordingly to reflect the actual binding practices of the Plan.

The examiners found that the notice of assignment used by the Plan to bind the coverage and to inform the designated carrier and the insured of assignment states:

“Per the Plan rules, coverage on this assignment is effective at 12:01 A.M. on the day following the date of assignment, as indicated in the caption of this NOTICE. If the application requests a later effective date, coverage shall begin at 12:01 A.M. on such date indicated on the application.”

Five of the 35 new business applications reviewed requested a policy effective date in the future date and not 12:01 A.M. on the day following the date of assignment. While the examiners did

not find any instances of confusion as to the effective date of coverage, the current design of the Notice of Assignment could cause such confusion.

**27. Recommendation:** It is recommended that Notice of Assignment be revised to clearly state the effective date and time of coverage.

The examiners found that Rule 3.B., Private Passenger Automobile Classifications in Section III of the Personal Automobile Manual provides that private passenger automobiles owned by clergyman shall be rated as Class 1A provided there are no youthful operators. Rule 1.A., Private Passenger Automobile Classifications in Section III of the Personal Automobile Manual provides that Class 1A is Pleasure Only. The singling out of one occupation for special consideration is unfairly discriminatory and violates s. 625.11, Wis. Stat., and s. Ins 6.54 (3), Wis. Adm. Code.

**28. Recommendation:** In order to ensure compliance with s. 625.11, Wis. Stat., and s. Ins 6.54 (3), Wis. Adm. Code, it is recommended that the Plan give clergymen the same rating considerations as any other occupation group.

## VI. FINANCIAL EXAMINATION FINDINGS

### Financial Data

The following financial statements reflect the financial condition of the Plan as reported in the December 31, 2000, audited financial statements sent to the Commissioner of Insurance. Also included in this section are schedules, which reflect the growth of the Plan. Adjustments made as a result of the examination are noted at the end of this section in the area captioned "Reconciliation of Net Assets."

#### Wisconsin Automobile Insurance Plan Assets As of December 31, 2000

	<b>Ledger Assets</b>	<b>Admitted Assets</b>
Cash	\$322,145	\$322,145
Petty Cash	50	50
Accounts Receivable	54	54
Prepaid Expenses	<u>2,000</u>	<u>2,000</u>
Total Assets	<u>\$324,249</u>	<u>\$324,249</u>

#### Wisconsin Automobile Insurance Plan Liabilities, and Net Assets As of December 31, 2000

Payable to the Pool	\$ 66,824
Payable to the Bureau	33,669
Payable to AIPSO	200,317
Other Accounts Payable	<u>116</u>
Total Liabilities	300,926
Net Assets	<u>23,323</u>
Total Liabilities and Net Assets	<u>\$324,249</u>

**Wisconsin Automobile Insurance Plan  
Summary of Operations  
For the Year 2000**

**Revenue**

Dues and Assessments from AIPSO:	
Current Operating Budget	\$129,590
Interest Income	17,589
Accrued budget adjustments from operations	<u>57,673</u>
Net Operating Revenue	204,852
Expenditures	<u>204,852</u>
Change in Net Assets	<u>\$ 0</u>

**Wisconsin Automobile Insurance Plan  
Cash Flow  
As of December 31, 2000**

**Adjustments**

Increase in prepaid expense	(\$2,000)
Increase in receivables	(54)
Increase in payable to the Pool	66,824
Increase in payable to the Bureau	33,669
Increase in other payables	72
Decrease in payables to AIPSO	(148,217)
Net Adjustments	<u>(49,706)</u>
Net change in cash and short-term investments	(49,706)

**Reconciliation**

Cash and short-term investments, December 31, 1999	<u>371,901</u>
Cash and short-term investments, December 31, 2000	<u>\$322,195</u>

**Wisconsin Automobile Insurance Company  
Reconciliation and Analysis of Net Assets  
For the Fifteen-Year Period Ending December 31, 2000**

The Plan revenues for the last 15 years have equaled its expenditures, leaving a net asset balance of \$23,323 for each of those years. Budget adjustments are made to bring the net asset balance to \$23,323. This is further discussed following the table.

**Growth of Wisconsin Automobile Insurance Plan**

<b>Year</b>	<b>Assets</b>	<b>Liabilities</b>	<b>Net Assets</b>	<b>Operating Budget</b>	<b>Budget Adjustment</b>	<b>Expenditures</b>
1986	\$227,093	\$203,770	\$23,323	\$130,000	(\$15,838)	\$114,162
1987	146,074	122,751	23,323	120,000	(5,470)	114,530
1988	148,788	125,465	23,323	125,000	(9,167)	115,868
1989	233,452	210,129	23,323	130,000	767	130,767
1990	170,140	146,817	23,323	140,000	3,652	143,652
1991	165,487	142,164	23,323	170,000	13,450	183,450
1992	90,276	66,953	23,323	150,000	130,994	280,994
1993	160,022	136,699	23,323	281,436	(58,662)	222,774
1994	161,519	138,196	23,323	312,800	(96,630)	216,170
1995	300,608	277,285	23,323	235,140	(40,175)	194,965
1996	235,131	211,808	23,323	222,757	(38,112)	184,646
1997	289,546	266,223	23,323	241,932	(29,549)	212,383
1998	338,332	315,009	23,323	190,249	(75,391)	129,442
1999	371,901	348,578	23,323	197,266	(62,982)	141,277
2000	324,249	300,926	23,323	129,590	57,673	204,852

The assets of the Plan have increased by 43% and Liabilities increased by 48% over the fifteen-year period covered by the financial portion of this examination. The Plan's expenditures have fluctuated over the same period and have resulted in a 79% increase. The Operating Budget for the Plan has also fluctuated over the period under examination, however, the difference between 1986's budget and 2000's budget was minimal.

The Plan reported a net asset balance of \$23,323 at year-end 2000. This balance is a direct result of the Plan's receipt of the assessed budget from the Automobile Insurance Pooled Service Organization (AIPSO) for 1981, an amount which exceeded the Plan's actual expenditures for that year. AIPSO knew of this balance in 1982, but advised the Plan that it was not going to collect it. The net asset balance remains constant from year to year because the

Plan adjusts its budget at year-end to cover any expenditure fluctuations from its budget. For 10 of the last 14 years prior to 2000, the Plan recorded results in which their budget assessments, received from AIPSO, exceeded its total expenditures at year-end resulting in an adjustment to decrease their revenue balance. These over-assessments were placed in an Accounts Payable account to AIPSO, which has been accumulating for a number of years. Currently the Plan handles over assessments by including them in the following year's budget.

For those years when the outcome is reversed and where the Plan's budget assessments do not cover all the expenditures made throughout a given year, an adjustment increasing their revenue balance is made. This is the case for the revenue adjustment in the 2000 audited financial statement, which is under examination. The Plan accounts for the under-assessed amount by netting it from the accounts payable to AIPSO balance. The accounts payable to AIPSO balance is further discussed in the Accounts Payable section of the report.

### **Reconciliation of Net Assets per Examination**

There were no changes made to the Plan's reported December 31, 2000 net asset balance, due to the financial examination.

### **Management and Control**

The examiners reviewed all agreements between the Plan and other parties. It was noted that the Plan does not have a written agreement with the Automobile Insurance Pooled Service Organization (AIPSO). AIPSO performs administrative duties on behalf of the plan. Such duties include, but are not limited to, the assessment of the Plan members, collection of the assessments and the forwarding of these funds to the SRDP and the Plan.

**29. Recommendation:** It is recommended that the Plan negotiate and execute a formal written agreement with the Automobile Insurance Pooled Service Organization for the administrative work it does on behalf of the Plan.

The Plan does not regularly review the financial condition and/or internal controls for any party administering work on behalf of the Plan. A Service Auditor's Report Type II, as defined in

the Statements on Auditing Standards number 70 pertaining to service organizations ("SAS 70"), is an internal control report that can be produced, on request by the CPA who conducts the yearly audit of the service firm. Review of the "SAS 70" report on key administrators could provide assurance that the entity is operating properly. As of December 31, 2000, AIPSO was the only entity that would need to supply the Plan with the report.

**30. Suggestion:** It is suggested that the Plan request and review Service Auditor's Reports (Type II) for any party administering work on the Plan's behalf under an agreement.

### **Accounts and Records**

The examiners reviewed the check disbursement procedures for the Plan. The examiners found that a recent Governing Committee resolution and the signature card prepared in March 2001 for the Plan checking account do not include the Financial Assistant. The examiners also found that the Financial Assistant signs a majority of the Plan checks and that to date the bank has not questioned the payment of checks.

**31. Recommendation:** It is recommended that the Plan amend its procedures to abide by the Governing Committee resolution or take the appropriate steps to ensure that the Financial Assistant is authorized as a signer on the checking account.

### **Accounts Payable**

The Money Market account for the Plan was reviewed. The Plan advised the examiners that the \$200,317.16 due to AIPSO is related to the offsetting money market account balance of \$294,582.04 maintained by Firststar Bank. This balance is an accumulation of over assessments (budgeted amounts exceeding actual disbursements in a given period), discussed earlier in the report. It should be noted that the balance technically does not act as a payable but as a reserve. The Plan advised the examiners that AIPSO recognizes that the amount is owed to them but will not send documentation stating so. In addition, AIPSO does not include this amount as a receivable in its financial statements. Instead AIPSO receives a budget request from the Plan that assesses AIPSO by some dollar amount, which takes into account a portion



of the balance "payable" to AIPSO. This in turn reduces the balance due to AIPSO by under assessing them. A detailed aging reconciliation of the over assessments due to AIPSO could not be provided by the Plan due to the fact that it is a cumulative balance carried over from year to year for a long period of time. The Plan advised the examiners that the balance due to AIPSO has not been settled to date. The Plan also advised the examiners that it intends to settle this account in the near future, which would reduce the money market account with Firststar by the \$200,317.16.

**32. Recommendation:** It is recommended that the Plan reconcile and settle its balance due to AIPSO on a timely basis and going forward at least on an annual basis.

## VII. CONCLUSION

The market conduct portion of the examination resulted in 28 recommendations relating to the need for the Wisconsin Automobile Insurance Plan (Plan) to modify certain management, processing, and underwriting procedures.

To ensure compliance with s. 628.03 (1), Wis. Stat., the Plan should verify that the producer submitting the application for insurance holds a valid Wisconsin intermediary license. The Plan should also develop and implement procedures that require the servicing carrier or designated insurer to notify the Plan of the receipt of a Plan application and the issuance of the insurance policy.

For the commercial risk portion of the Plan or the SRDP, the Plan must amend rules contained in the Commercial Automobile Manual in order to avoid confusion and ensure consistent application of Plan rules among insureds by the servicing carriers. In addition, the Plan must follow the Commercial Automobile Manual and the Plans written procedures for assigning new business applications. The Plan should also provide for a more expeditious delivery of application materials to the servicing carrier if desired by the applicant and take measures to ensure that the servicing carriers are complying with the Wisconsin insurance laws.

For the personal private passenger portion of the Plan, the Plan must amend the rules contained in the Personal Automobile Manual in order to avoid confusion, comply with the insurance laws and reflect the actual practices of the Plan. The Plan must also ensure that the applicants are provided with proper notice of the potential of a short rate cancellation.

The financial portion of the examination of the Plan resulted in three recommendations, one suggestion, no adjustments to surplus, and no reclassifications. The recommendations dealt with basic management and control issues concerning the need to implement formal written Articles and Bylaws, and to execute a formal agreement with the service organization that currently performs the administrative duties on behalf of the Plan.

As of December 31, 2000, the Plan recorded an asset balance of \$324,249, a liability balance of \$300,926, and a net asset balance of \$23,323. The net asset balance has remained the same from year to year due to adjustments made to the budget at year-end to cover any over or under spending. The Plan's budget has exceeded expenditures eleven out of the past fifteen years. The accumulations of those over budgeted amounts have resulted in a balance of \$200,317 due to AIPSO. A recommendation addressed the settlement of the balance to AIPSO on a timely basis. All expenditures the plan incurs are reimbursed through assessment of the member companies.

## VIII. SUMMARY OF RECOMMENDATIONS AND SUGGESTIONS

### Operations & Management

- Page 11      1. To ensure that an applicant and/or policyholder is aware of the minimum annual premium charge provided for in the Personal Automobile Manual, it is recommended that the Plan revise Plan form number 982 (0995) accordingly.

### Customer Service and Complaints

- Page 11      2. It is recommended that the Plan formally define what constitutes a complaint, develop and implement written procedures related to the handling of complaints and maintain a log of complaints received.
- Page 12      3. It is recommended that Rule 6. Right of Appeal in Section II. Producer-- Insurance Company Responsibilities of the Personal Automobile Manual be amended to comply with s. Ins 3.49 (3) (d), Wis. Adm. Code. It is further recommended that Rule N., Appeals By Applicant or Insured in Section I - General Rules and Information of the Commercial Automobile Manual be amended to comply with s. Ins 3.49 (3) (d), Wis. Adm. Code.

### Residual Market Operations

- Page 15      4. To avoid confusion and ensure consistent application among insureds and by servicing carriers, it is recommended that Rule 11. Policy Cancellations of the General Rules Section of the Commercial Automobile Manual be amended to clearly state under what circumstances facultative reinsurance is or is not fully earned.
- Page 15      5. It is recommended that the Plan direct the servicing carrier to comply with s. Ins 6.85 (4), Wis. Adm. Code.
- Page 15      6. It is recommended that the Plan follow its written procedures when assigning new business to a servicing carrier.
- Page 16      7. It is recommended that the Plan collect the required fee for each motor carrier regulatory agency to which the servicing carrier is asked to send liability insurance verification to ensure compliance with Rule F.3 in Section I of the Commercial Automobile Manual.
- Page 16      8. To ensure compliance with s. 628.03 (1), Wis. Stat., it is recommended that at the time an application for commercial lines insurance is submitted to the Plan, the Plan verify that the producer submitting the application does in fact hold a valid Wisconsin intermediary license before accepting the application for insurance.
- Page 17      9. It is recommended that the Plan direct the servicing carrier to eliminate the option of paying the premium to the producer and require the servicing carrier to revise its premium and cancellation notices accordingly.

- Page 17      10. It is recommended that the Plan develop and implement a procedure that allows the Plan to deliver application materials to the servicing carrier more expeditiously than via regular U.S. Mail.
- Page 18      11. To ensure that coverage is effectively terminated when the insured fails to timely pay the renewal premium, it is recommended that the Plan direct the servicing carrier to revise its notice of renewal to comply with s. 631.36 (4), Wis. Stat.
- Page 18      12. To ensure that all assigned policies are issued, it is recommended that the Plan develop and implement a procedure that requires a servicing carrier to notify the Plan of the receipt of an assignment and the issuance of the policy.
- Page 19      13. To ensure compliance with s. 628.03 (1), Wis. Stat., it is recommended that the Plan verify that at the time an application for personal lines insurance is submitted to the Plan, the producer submitting the application does in fact hold a valid Wisconsin intermediary license before accepting the application for insurance.
- Page 20      14. It is recommended that the Plan not return an application to the producer and/or insured for the sole reason that the most recent version of the application form was not completed.
- Page 20      15. It is recommended that Rule 1.C. Deposit Applicable to Either A or B Above in Section II, Producer, Insurance Company Responsibilities of the Personal Automobile Manual be amended to reflect the Plan's actual practice of accepting certified checks for the deposit premium.
- Page 20      16. In order to avoid confusion, it is recommended that the Personal Automobile Manual be amended to clearly indicate when a specific performance standard is to be completed in a specified number of working or calendar days.
- Page 21      17. To ensure compliance with s. Ins 6.10, Wis. Adm. Code, it is recommended that the Plan provide written notice that the policyholder may pay a substantial penalty if the policyholder cancels the policy prior to its expiration date or amend the Personal Automobile Manual to require the designated companies to provide the required notice and verify that all designated companies are providing the appropriate notice.
- Page 22      18. It is recommended that the Personal Automobile Manual be revised to require the designated carrier to terminate a Financial Responsibility Certificate (SR-22) when the Plan policy is terminated.
- Page 22      19. It is recommended that Rule 3.B.3 in Section II of the Personal Automobile Manual be amended to require the designated carrier to state with reasonable precision the facts on which the insurer's decision is based in order to ensure compliance with s. 631.36, Wis. Stat.
- Page 22      20. It is recommended that Rule 3.D Completion of Assignment Period in Section II of the Personal Automobile Manual be amended to comply with s. 631.36 (4) (a), Wis. Stat.

- Page 23      21. It is recommended that Rule 7. Reeligibility in Section II of the Personal Automobile Manual be amended accordingly to reflect the correct references to other applicable Plan rules.
- Page 23      22. To ensure compliance with s. 631.36 (4) (a), Wis. Stat., it is recommended that Rule 8, Four-Year Assignment Period in Section II of the Personal Automobile Manual be amended to require that proper notice of non-renewal be provided to the insured.
- Page 24      23. It is recommended that Rules 9.A.2 and 9.B.1 in Section II of the Personal Automobile Manual be revised to clarify the references to a 'prescribed form'.
- Page 24      24. To ensure that all assigned policies are issued, it is recommended that the Plan develop and implement a procedure that requires a designated carrier to notify the Plan of the receipt of an assignment and the issuance of the policy.
- Page 24      25. To ensure compliance with Rule 1, Application For Assignment in Section II of the Personal Automobile Manual, it is recommended that the Plan check for and obtain the required deposit premium before accepting applications for insurance.
- Page 25      26. It is recommended that the Personal Automobile Manual be amended accordingly to reflect the actual binding practices of the Plan.
- Page 26      27. It is recommended that Notice of Assignment be revised to clearly state the effective date and time of coverage.
- Page 26      28. In order to ensure compliance with s. 625.11, Wis. Stat., and s. Ins 6.54 (3), Wis. Adm. Code, it is recommended that the Plan give clergymen the same rating considerations as any other occupation group.

### **Management and Control**

- Page 30      29. It is recommended that the Plan negotiate and execute a formal written agreement with the Automobile Insurance Pooled Service Organization for the administrative work it does on behalf of the Plan.
- Page 31      30. It is suggested that the Plan request and review Service Auditor's Reports (Type II) for any party administering work on the Plan's behalf under an agreement.

### **Accounts and Records**

- Page 31      31. It is recommended that the Plan amend its procedures to abide by the Governing Committee resolution or take the appropriate steps to ensure that the Financial Assistant is authorized as a signer on the checking account.

### **Accounts Payable**

- Page 32      32. It is recommended that the Plan reconcile and settle its balance due to AIPSO on a timely basis and going forward at least on an annual basis.

## **IX. ACKNOWLEDGEMENT**

The courtesy and cooperation extended during the course of the examination by the officers and employees of the Plan is acknowledged.

In addition to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<b>Name</b>	<b>Title</b>
Laura Andréasson	Insurance Examiner
Russell Lamb	Financial Insurance Examiner
DuWayne Kottwitz	Financial Insurance Examiner

Respectfully submitted,

Jo A. LeDuc, CIE, CPCU  
Examiner-in-Charge  
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Bureau of Analysis and Financial Examinations